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FRANK C. NICHOLAS (33,983)
Name of applicant, assignee or registered representative

/Frank C. Nicholas/
Signature

September 21, 2006
Date of Signature

PATENT
Case No. NL 000585
(7790/359)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re patent application of:)	
)	
ROBERT D. SCHOFIELD)	
)	Examiner: AL AUBAIDI, RASHA S
Serial No.: 10/040,172)	
)	Group Art Unit: 2642
Filed: OCTOBER 23, 2001)	
)	
For: USER CONTROL OF TELEPHONE))	
SWITCH THROUGH A)	
HTTP CLIENT APPLICATION)	

REPLY BRIEF

Mail Stop **Appeal Brief - Patents**
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Appellant herewith respectfully presents a Reply Brief in response to an
Examiner's Answer dated July 21, 2006 as follows:

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1. REAL PARTY IN INTEREST

A statement identifying the real party in interest is contained in the Appeal Brief dated December 20, 2004.

2. RELATED APPEALS AND INTERFERENCES

Appellant and the undersigned attorney are still not aware of any other appeals or interferences which will directly affect or be directly affected by or having a bearing on the Board's decision in the pending appeal.

3. STATUS OF CLAIMS

A statement of the status of claims is contained in the Appeal Brief dated
December 20, 2004.

4. STATUS OF AMENDMENTS

A statement of the status of amendments is contained in the Appeal Brief dated December 20, 2004.

5. SUMMARY OF THE CLAIMED SUBJECT MATTER

A statement of the summary of the claimed subject matter is contained in the
Appeal Brief dated December 20, 2004.

6. GROUND OF REJECTION TO BE REVIEWED ON APPEAL

Claims 17-19 stand finally rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,445,921 to *Bell*.

7. ARGUMENT

“Operatively Associated”. The Applicant respectfully asserts that Examiner Al Aubaidi’s assertion that the Applicant is attempting to read limitations from the specification into claims 17-19 is extremely unusual and untenable is in fact a common tactic by examiners to support an ambiguous rejection. In this case, Examiner Al Aubaidi asserts *Wood* does not teach or suggest one of a web page or a web browser being operatively associated with a calling number of a telephone, yet supports his assertion on a basis of the terms “associated” and “operatively associated” having the same definitional scope.

A review of the argument in the Appeal Brief reveals the fact that the Applicant never relies on the specification for defining the term “operatively associated” and thus does not attempt to read limitations from the specification into claims 17-19. Clearly, the argument in the Appeal Brief is directed to showing there must be a distinction between terms “associated” and “operatively associated” with the term “operatively associated” having a narrower definitional scope than the broader term “associated” in view of the word additional work “operatively”. To support this distinction, the argument in the Appeal Brief states how *Wood* teaches the web page is operatively associated with the subscriber. This feature of *Wood* enables the subscriber to be able to utilize the web page for a telephone function based on a calling number of the telephone that is passively, not operatively, associated with the web page via the subscriber. In other words, the web

server identifies the subscriber irrespective to the location of the subscriber to thereby know which web page to provide to the subscriber with the web page including a designated telephone number. Thus, the web page is only beneficial to the subscriber for purposes of using telephone if and only if the telephone is in the proximity of the user. Otherwise, the web page is useless for purposes of the subscriber using the telephone.

By comparison, the present invention operatively associates a web page or a web browser to a telephone number whereby the web server identifies a telephone number in the proximity of the subscriber as associated with a web page requested by the subscriber or a web browser being used by the subscriber. Thus, the web server is always capable of identifying a calling number of a telephone in the proximity of the subscriber.

In summary, the Applicant was not attempting to read limitations into the claims, but was clarifying a proper interpretation of *Woods* to thereby address the ambiguous rejection set forth by Examiner Al Aubaidi.

Obviousness Rejection. In the Appeal Brief, the Applicant's argument was generally based on an anticipation rejection of claims 17-19 as being anticipated by *Wood*. Nonetheless, to cover both anticipation and obviousness rejections of claims 17-19, the Applicant's argument in the Appeal Brief was specifically based on demonstrating (1) a failure of *Wood* to disclose the subject matter of claims 17-19 for anticipation purposes and (2) a teaching away by *Wood* from the subject matter of claims 17-19 for obviousness purposes. Thus, the following assertions by the Applicant is

related in the context of an obviousness rejection of claims 17-19 as being unpatentable over *Wood* with an emphasis of Wood's teaching away of the subject matter of claims 17-19.

Obviousness Standard. To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). See, MPEP 2143.

Claims 17-19. The Appellant respectfully traverse the obviousness rejection of independent claims 17-19, because *Wood* fails to teach or suggest the following limitations of claims 17-19 and fails to provide a suggestion or a motivation to be modified to include the following limitations of claims 17-19:

1. “wherein one of the web page and the web browser is operatively associated with a calling number of the telephone” as recited in independent claim 17;

2. “wherein the web page is operatively associated by the web server with a calling number of the telephone” as recited in independent claim 18; and

3. “wherein the web browser is operatively associated by the web server with a calling number of the telephone” as recited in independent claim 19.

Wood. A proper understanding of *Wood* reveals that *Wood* fails to teach or suggest the aforementioned limitations of independent claims 17-19 as well as fails to provide a suggestion or motivation to be modified to include the aforementioned limitations of independent claims 17-19.

Specifically, *Wood* teaches a user subscription system whereby only the web page is operatively associated with the subscriber. See, *Wood* at column 9, lines 46-64. *Wood* fails to teach the web page being operatively associated with a calling number of a particular telephone or a web browser being operatively associated with a calling number of a particular telephone.

In the Final Office Action, Examiner Al Aubaidi recognizes that *Wood* fails to teach or suggest the aforementioned limitations of claims 17-19. However, Examiner Al Aubaidi asserts that the term “operatively associated” does not have a definite meaning, and is therefore broad enough to read on a web page that simply contains a calling number of a telephone or a web browser that simply contains an account listing of a calling number of a telephone.

The Applicant respectfully disagrees with Examiner Al Aubaidi, because the term “associated” has a definite definition that can be found in a dictionary as a verb that broadly means “a connection with another”, and the term “operatively” has a definite definition that can be found in any dictionary as an adverb that means “in an operative manner”. Thus, the term “operatively associated” has a definite definition that broadly means “an connection with another in an operative manner”. Thus, the Applicant thereby respectfully asserts that the proper interpretation of the aforementioned limitations of claims 17-19 is that the web page or the web browser are in connection with a calling number of a telephone in an operative manner. As such, the term “operatively associated” excludes any non-operative manner for associating a web page or a web browser to a calling number of a telephone, such as, for example, a listing of the calling

number on the web page wherein the listing is incapable of facilitating an operation of the web page, and a listing of the calling number in a web browser account wherein the listing is incapable of facilitating an operation of the web browser.

Withdrawal of the rejection of independent claims 17-19 under 35 U.S.C. §103(a) as being unpatentable over *Wood* is therefore respectfully requested.

Dated: **September 21, 2006**

Respectfully submitted,
ROBERT D. SCHOFIELD

PHILIPS INTELLECTUAL PROPERTY
& STANDARDS
P.O. Box 3001
Briarcliff, New York 10510

Jack D. Slobod
Registration No. 26,236
Attorney for Appellant

CARDINAL LAW GROUP
Suite 2000
1603 Orrington Avenue
Evanston, Illinois 60201
Phone: (847) 905-7111
Fax: (847) 905-7113

/FRANK C. NICHOLAS/
Frank C. Nicholas
Registration No. 33,983
Attorney for Appellant

CLAIMS APPENDIX

17. A communication system, comprising:
- a telephone;
 - a telephone switch operative to interact with the telephone and provide a control function to a user of the telephone; and
 - a web server connected to the telephone switch and operative to provide the control function to the user of the telephone via a web page provided by the web server and accessible by a web browser, wherein one of the web page and the web browser is operatively associated with a calling number of the telephone.
18. In a communication system employing a telephone and a telephone switch, a web system comprising:
- a web server; and
 - a web page provided by the web server and accessible via a web browser;
- wherein the web server is operable to interact with the telephone switch and the web page is operable to interact with the web browser to thereby provide a control function to a user of a telephone, and
- wherein the web page is operatively associated by the web server with a calling number of the telephone.

19. In a communication system employing a telephone and a telephone switch, a web system comprising:

- a web server; and
- a web page provided by the web server and accessible via a web browser

operatively associated by the web server with a calling number of the telephone,

wherein the web server is operable to interact with the telephone switch

and the web page is operable to interact with the web browser to thereby provide a control function to a user of a telephone.

EVIDENCE APPENDIX

None.

RELATED PROCEEDINGS APPENDIX

None.